

## **EXHIBIT 2**

IN THE DISTRICT COURT IN AND FOR CREEK COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COL  
CREEK COUNTY SAPULP

DEC - 7 2016  
412

TIME \_\_\_\_\_  
Amanda VanOrsdol, COURT C

DAVID LARUE MCCUTCHEN AND )  
JOAN MCCUTCHEN, )  
Plaintiffs, )  
vs. )  
CSAA FIRE & CASUALTY INSURANCE )  
COMPANY, d/b/a AAA INSURANCE, )  
Defendant. )  
Case No. 2016 332  
ATTORNEY LIEN CLAIMED  
JURY TRIAL DEMANDED  
DOUGLAS W. GOLDEN

PETITION

COME NOW, Plaintiffs, David Larue McCutchen and Joan McCutchen, by and through their attorneys of record, Ronald E. Durbin, II and John E. Rooney, Jr. of Durbin Law Firm, PLLC, and for their cause of action against the Defendant, allege and state as follows, to wit:

JURISDICTION AND VENUE

1. That at all times hereinafter mentioned, David Larue McCutchen and Joan McCutchen were and are residents of Tulsa County, State of Oklahoma.
2. David Larue McCutchen and Joan McCutchen own real property and operate a business in Creek County, State of Oklahoma, and they have significant ties to Creek County.
3. Defendant CSAA Fire & Casualty Insurance Company d/b/a AAA Insurance (hereinafter "AAA"), is a foreign insurance company with authority to issue insurance policies in the State of Oklahoma.
4. Defendant AAA sells policies in Creek County, State of Oklahoma;
5. The District Court in and for Creek County, State of Oklahoma, has jurisdiction and venue in Creek County is the most convenient for all parties.

**FACTUAL BACKGROUND**

6. Paragraphs 1 through 5 are incorporated by reference.
7. Plaintiffs David Larue McCutchen and Joan McCutchen (collectively the "McCutchens") purchased a homeowner's insurance policy from AAA insuring the residence of the McCutchens (herein "the Homeowner's Policy").
8. Prior to the acts outlined herein, the McCutchens made all payments on Homeowner's Policy.
9. On the date of loss suffered by the McCutchens, the Homeowner's Policy was in full force and effect.
10. Plaintiffs suffered damage to their roof covered by the Homeowner's Policy issued by Defendant.
11. Plaintiffs properly notified Defendant of their loss claim related to the roof of their residence.
12. Defendant sent an inspector to review the damage to Plaintiffs' roof, and said inspector notified Plaintiffs that a new roof needed to be installed to properly repair the damage.
13. Subsequent to Defendant's inspector telling the Plaintiffs that a new roof needed to be installed, Defendant, with no basis, only offered to patch the damage to the Plaintiffs' roof.
14. Plaintiffs, individually, and by and through the undersigned counsel, made repeated requests that AAA properly investigate, evaluate, and pay the claim including paying for the installation of a new roof which was necessary to properly repair the damage.
15. Defendant AAA repeatedly refused Plaintiffs' demand that they replace the roof as required to properly repair the damage.
16. Because Defendant refused to replace the roof, the damaged roof leaked during a storm and caused significant interior damage to the Plaintiffs' residence.

17. That as a result of the damage outlined in Paragraph No. 16 above, the Plaintiffs incurred significant additional and consequential expenses, were unable to use major portions of their residence, were exposed to construction debris and dust as said repairs took more than six (6) months to complete and suffered a diminution in the value of their property.
18. Plaintiffs' damages were caused by Defendant performing a woefully inadequate and incomplete investigation of Plaintiffs' original roof claim and/or acting with actual fraud in order to pay Plaintiffs less than the amount due them under the policy issued by AAA.
19. Defendant failed to investigate and resolve Plaintiffs' initial roof claim in a timely manner and all damages suffered by Plaintiffs resulted from said failure.
20. Defendant failed to timely pay Plaintiffs the amount due under the Homeowner's Policy.
21. Defendant breached its duty to deal with Plaintiffs fairly and in good faith.
22. As a result of Defendant's bad faith, Plaintiffs experienced emotional pain and suffering, were required to retain an attorney, and suffered the additional damages outlined above.
23. Defendant breached its duty to timely and properly pay Plaintiffs' claim under the Homeowner's Policy.
24. Defendant breached its duty to deal fairly and in good faith with Plaintiffs.
25. As a result of Defendant's breach of contract, Plaintiffs sustained damages in an amount in excess of \$75,000.00.
26. As a result of Defendant's tortuous breach of the duty to deal fairly and in good faith with Plaintiffs, Plaintiffs have sustained damages in an amount in excess of \$75,000.00.
27. Plaintiffs are entitled to be awarded their costs and attorneys fees.
28. Plaintiffs are entitled to be awarded pre-judgment and post-judgment interest on their claim for breach of contract.

29. Plaintiffs are entitled, pursuant to 12 O.S. § 727.1, to be awarded pre-judgment and post-judgment interest on her claim for breach of the duty of good faith and fair dealing owed Plaintiffs.

30. Defendant, in committing the acts complained of herein, acted willfully, wantonly, maliciously, and in reckless disregard of the rights of Plaintiffs.

31. Pursuant to 23 O.S. § 9.1, punitive damages should be awarded against Defendant and in favor of Plaintiffs.

WHEREFORE, Plaintiffs pray for Judgment against the Defendant for actual damages and other compensatory damages, including emotional pain and suffering, for breach of contract and for breach of the duty of good faith and fair dealing, and for all other claims in an amount in excess of \$75,000.00, punitive damages in an amount in excess of \$75,000.00, pre-judgment and post-judgment interest, a reasonable attorney's fee, the costs of this action; and for such further relief that is just and equitable.

**JURY TRIAL DEMANDED.  
ATTORNEYS' LIEN CLAIMED.**

Respectfully submitted,



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